

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against-

JIA HOU, *et al.*,

Defendants.

S1 12 Cr. 153 (RJS)

**NOTICE OF MOTION TO
SET ASIDE VERDICT
PURSUANT TO
FED. R. CRIM. P. RULE 33**

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PLEASE TAKE NOTICE that, upon the annexed Declaration of Gerald B. Lefcourt, Esq., executed June 30, 2014, pursuant to 28 U.S.C. §1746 and S.D.N.Y. Local Rule 2(B); the exhibits annexed thereto; the accompanying Memorandum of Law; and the pleadings hitherto had herein, defendant Jia (Jenny) Hou will move this Court, before The Honorable Richard J. Sullivan, United States District Judge, at the United States Courthouse for the Southern District of New York, located at 500 Pearl Street, New York, N.Y, 10007, Courtroom 21C, on a date to be set by the Court, for an Order:

- (1) Vacating the conviction on Count Two of the Superseding Indictment for attempted wire fraud because of newly discovered evidence, to wit, that the evidence at trial admitted in support an intended use of the wires in interstate commerce, which is the jurisdictional element of wire fraud, was false and has now been repudiated by the government; that the wrongly admitted evidence unquestionably had a substantial and material impact on the jury's finding of this element; and without the evidence there is insufficient evidence to support the charge;

(2) Sending an indication to the United States Court of Appeals for the Second Circuit that the Court would grant the Rule 33 motion if the case were remanded pursuant to Fed.

R. Crim. P. Rule 33(b)(1) for that purpose; and

(3) Granting any further or other relief which to this Court appears just.

June 30, 2014

GERALD B. LEFCOURT, P.C.

By _____/s/_____
Gerald B. Lefcourt (GBL 5030)
Sheryl E. Reich (SER 7943)

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